Single Bench

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION.NO. 4313 OF 2004

BETWEEN

1. Premanand Shah, aged about 34 years, S/o Shri Udai Shah, orally terminated daily wages employee (Bhritya), Head Office, Zila Sahakari Kendriya Bank, Maryadit, Bilaspur, resident of Indra Vihar Colony, S.E.C.L. Bilaspur ,Tehsil and District Bilaspur (CG).

2. Mansharam Kashyap ,aged about 35 years, S/o Kunjram Kashyap, occupation orally terminated daily wages employee (Bhritya),Head Office, Zila Sahakari Kendriya Bank Maryadit, Bilaspsur, r/o Bajarpara Mariya Road, Bilaspur (CG).

PETITIONER

AND

1- The State of Chhattisgarh,
Through the Secretary Department of Co-operative Societies Chhattisgarh, D.K.S. Building, Raipur (C.G.)

2- The Registrar,
Co-operative Societies Chhattisgarh,
Near Agriculture College, Labhandi, Raipur, Tehsil and District: Raipur (C.G.)

3- Zila Sahakari Kendriya Bank Maryadit,
Head Office, Bilaspur ,
Through its General Manager.

4- Chief Executive officer,
Zila Sahakari Kendriya Bank, Maryadit, Bilaspur
Near Mungelinaka, Tehsil & District: Bilaspur (C.G.)

RESPONDENTS

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 4313 of 2004

Petitioners Premanand Shah and another

Versus

Respondents The State of Chhattisgarh and others

Single Bench : Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Gary Mukhopadhyaya, Advocate for the petitioners.
Smt. Anju Ahuja, Deputy Govt. Advocate for the respondents No.1 and 2.
Shri S. L. Kurmi, Advocate for the respondents No. 3 and 4.

ORAL ORDER

(17th July, 2006)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. The petitioners No. 1 and 2 were appointed as Peons on daily wages on 18.1.1994 and 24.7.1996, respectively, by Zila Sahakari Kendriya Bank Maryadit, Bilaspur. Their services were discontinued by order dated 12.2.2000. The petitioner No.1 along with others filed W. P. No. 2236/2000 in the High Court of Madhya Pradesh at Jabalpur, challenging the termination order. The High Court of Madhya Pradesh at Jabalpur by its judgment and order dated 8.5.2000 (Annexure P/1) directed the respondent/authorities to consider the cases of the petitioner No.1 along with others. Pursuant to the order dated 8.5.2000 the petitioners were taken back in service by order dated 31.7.2000 (Annexure P/2).

2. Learned counsel appearing for the petitioners submits that all of a sudden by an oral order, the services of the petitioners were discontinued on 1.11.2004.

3. Shri S. L. Kurmi, learned counsel appearing for the respondents No. 3 and 4, on the contrary, submits that the petitioners have never been

removed from service by any order, including the oral order. They remained absent ever since, till date, and as such the petitioners have no right to continue as Peon on daily wages basis. He further submits that the petitioners have not resorted to the efficacious alternative remedy, which is provided under Section 55 of the Chhattisgarh Cooperative Societies Act, 1960 (for short 'the Act, 1960').

4. The present case involves disputed questions of facts and even otherwise, alternative remedy available under Section 55 of the Act, 1960 is expeditious and efficacious and the same cannot be bypassed.

5. Learned counsel for the petitioner agrees and submits that the petitioners be permitted to avail the alternative remedy as provided under Section 55 of the Act, 1960 and the petitioners be protected from bar of limitation in filing appeal before the Registrar, Cooperative Societies.

6. Having heard learned counsel for the parties and having regard to the facts and circumstances of the case, the petitioners are at liberty to avail the alternative remedy as provided under the Act, 1960 within a period of two weeks from the date of receipt of copy of this order and in that event, the question of limitation would not come in the case of filing of appeal. In turn, the Registrar, Cooperative Society shall consider and decide the case of the petitioners within a period of 8 weeks from the date of filing of the appeal before him, on merits, in accordance with law, without being influenced by the observations made hereinabove.

7. With the above observations, the petition stands disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur